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DRAFTED BY OES/OFA /FA B.S.HALLMAN:EEB

APPROVED BY OES/OFA /FA LMNAKATSU

L/OES-MR. COLSON

ARA/LA/PLC-MR. WILLIAMS

ARA/MEX-MR. FALK

T-MR. CRAFT

S/S:CABORG

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FM SECSTATE WASHDC

TO AMEMBASSY MEXICO PRIORITY

C O N F I D E N T I A L STATE 042830

E.O. 11652: GDS

TAGS: EFIS, PFOR, MX

SUBJECT: 200-MILES AND US-MEXICAN FISHERIES

REF: (A) MEXICO 2060; (B) MEXICO 2098

FOR AMBASSADOR JOVA FROM UNDER SECRETARY MAW

1. BEGIN SUMMARY (UNDERLINED)

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ACTION BY MEXICO TO ESTABLISH A 200-MILE EXCLUSIVE ECONOMIC

ZONE OFF ITS COAST BY CONSTITUTIONAL AMENDMENT WILL HAVE PROFOUND IMPACT ON U.S. FISHERIES. WE ARE CONCERNED OVER RECENT MEXICAN ACTION TO AMEND FISHERIES LAW, WHICH IMPLIES THAT NO DISTINCTION IS BEING MADE BETWEEN MANAGEMENT OF HIGHLY MIGRATORY AND COASTAL SPECIES OF FISH, THAT SHRIMP MAY ONLY BE AVAILABLE TO MEXICAN COOPERATIVES AS IS PRESENTLY THE CASE WITHIN 12-MILES, AND THAT REQUIREMENT OF 50 PERCENT MEXICAN CREW AS WELL AS OTHER TROUBLESOME CONDITIONS MAY APPLY TO FOREIGN FISHING INSIDE 200-MILES. WE ARE ALSO CONCERNED OVER INSUFFICIENT TIME AVAILABLE TO CONCLUDE COMPLEX NEGOTIATIONS REGARDING CONSERVATION OF AND ACCESS TO FISHERIES STOCKS OF MUTUAL CONCERN. ACCORDINGLY EMBASSY IS REQUESTED TO CONTACT GOM AT FOREIGN MINISTER LEVEL TO URGE DELAY IN ENFORCEMENT OF LAW WITH

RESPECT TO FOREIGN FISHERMEN, MUCH AS U.S. WILL MOST LIKELY DO IN OUR OWN IMPLEMENTATION OF 200-MILES, IN ORDER TO PROVIDE TIME FOR NEGOTIATIONS REGARDING CONSERVATION AND TERMS OF ACCESS. (END SUMMARY)/ -

2. RECENT ACTIONS BY MEXICO AS REPORTED REFTELS COME AS NO GREAT SURPRISE TO DEPT. BUT WE ARE INCREASINGLY TROUBLED BY DIRECTION IN WHICH WE SEEM TO BE HEADED WITH RESPECT TO IMPACT ON US FISHERIES OF GOM ACTION.

3. AS YOU KNOW, THE US IS ALSO MOVING TOWARDS 200-MILES, BUT MEXICAN AND US ACTIONS ARE NOT IN PHASE. WHILE 200-MILE ZONE MAY BECOME A REALITY OFF US COAST IN JULY 1977, MEXICAN TIMETABLE FOR 200-MILES APPEARS TO BE ABOUT ONE YEAR AHEAD OF THAT OF US.

4. POLICY OPTIONS WITH RESPECT TO APPROACH TO GOM ON FISHERIES MUST NECESSARILY FLOW FROM NATURE AND SPECIFIC CONTENT OF MEXICAN AND US ACTIONS. ON US SIDE, IT IS UNCLEAR AT THIS TIME PRECISELY WHAT WILL EMERGE IN TERMS OF SUCH SPECIFIC CONTENT. FOR MEXICO, OUR IMPRESSION IS THAT

SPECIFICS OF HOW CONSTITUTIONAL AMENDMENT WILL BE IMPLEMENTED, ESPECIALLY AS THIS RELATES TO TERMS AND CONDITIONS WHICH WOULD APPLY FOR FOREIGN FISHERMEN, HAVE ALSO NOT CONFIDENTIAL

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BEEN CLEARLY THOUGHT OUT. OUR CONCERN IS THAT DECISIONS ARE NOW BEING MADE WITHIN GOM WHICH MAY CAUSE SIGNIFICANT PROBLEMS LATER ON. FOR EXAMPLE, AMENDMENT TO ARTICLE 37 OF MEXICAN FISHERIES LAW AS REPORTED REFTEL (B) IS TROUBLING. OUR UNDERSTANDING HAS BEEN THAT TERMS AND CONDITIONS OF ACCESS TO ECONOMIC ZONE FOR FOREIGN TUNA VESSELS WAS SUBJECT OF NEGOTIATION IN CONNECTION WITH ARTICLE 53 OF SINGLE NEGOTIATING TEXT, AND THAT GOM MADE

DISTINCTION BETWEEN TREATMENT OF HIGHLY MIGRATORY SPECIES AND COASTAL SPECIES OF FISH. IF 50 PERCENT CREW REQUIREMENT AND OTHER UNILATERALLY PROCLAIMED CONDITIONS ARE TO APPLY TO TUNA, THIS IS CONTRARY TO ASSUMPTIONS WE HAVE BEEN HOLDING REGARDING GOM INTENTIONS. CREW REQUIREMENT WOULD INDEED CAUSE VERY GREAT PROBLEMS TO HIGHLY MOBILE US FLEET; IF OTHER COASTAL COUNTRIES IN EASTERN PACIFIC HAD SIMILAR REQUIREMENTS NO FOREIGN VESSELS COULD OPERATE WITHIN 200-MILES, THUS NEGATING CONCEPT OF FULL UTILIZATION. THIS IS PRECISELY WHY, WITH RESPECT TO TUNA, WE BELIEVE, AND HAD ASSUMED THE GOM SHARED OUR VIEW ON THIS, THAT THERE MUST BE INTERNATIONALLY ESTABLISHED STANDARDS REGARDING CONSERVATION AND ACCESS. 50 PERCENT CREW REQUIREMENT WOULD ALSO PRESENT SERIOUS PROBLEM TO US SHRIMPBOATS, AS WELL AS TO ALBACORE FISHERMEN AND FISHERMEN PURSUING OTHER SPECIES ON PACIFIC COAST. AND AGAIN, THIS REQUIREMENT DOES NOT APPEAR TO SQUARE WITH MEXICAN LOS POSITION AS WE UNDERSTAND IT, SINCE THIS IS NEW CONDITION FOR ACCESS WHICH IS NOT IN SINGLE NEGOTIATING TEXT, AND WHICH WE HAD NOT HEARD OF BEFORE IN CONNECTION WITH 200-MILES. SIMILARLY, TECHNOLOGY ISSUE NOTED REFTTEL (B) RAISES A NUMBER OF QUESTIONS AND COULD HAVE TROUBLING IMPLICATIONS FOR US FISHERMEN.

5. IT IS CLEAR, THEREFORE, THAT IN ADDITION TO PROBLEM OF US AND MEXICAN INITIATIVES BEING OUT OF PHASE, THERE IS

A PROBLEM OF DIFFERING APPROACHES IN TERMS OF REAL SUBSTANCE. FOR INSTANCE, US LAW WILL PROBABLY EXCLUDE TUNA FROM 200-MILE REGIME WHILE GOM LAW APPEARS TO INCLUDE TUNA WITHIN ZONE. THESE POTENTIAL PROBLEMS WOULD BE GREATLY ALLEVIATED IF TIMING WERE NOT SUCH A CRITICAL FACTOR AT THIS POINT, WITH GOM HEADED TOWARD EARLY SUMMER

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IMPLEMENTATION OF 200-MILE CLAIM. IT MAY NOT BE CLEAR FOR SOME TIME WHAT PRECISE NATURE OF US EXTENDED JURISDICTION WILL BE AND THUS WHAT CONSTRAINTS USG MUST OPERATE UNDER AND IN WHICH DIRECTIONS WE SHOULD GO. IT WOULD BE IN OUR INTEREST IF TIMING WERE DIFFERENT THAN IS PRESENTLY THE

CASE. BOTH GOVERNMENTS COULD USE MORE TIME, TO CONSIDER INTERNALLY HOW ZONE SHOULD BE IMPLEMENTED, TO CONSULT INFORMALLY WITH EACH OTHER CONCERNING THE SPECIFICS OF LEGISLATION IMPLEMENTING 200-MILES, TO HOLD MORE FORMAL DISCUSSIONS REGARDING POSSIBLE AGREEMENTS BETWEEN THE TWO GOVERNMENTS CONCERNING MUTUAL CONSERVATION AND ACCESS TO FISHERY STOCKS OF SHARED CONCERN, AND FINALLY, TO ALLOW AT LEAST TWO MORE SESSIONS OF THE LOS NEGOTIATIONS TO BE COMPLETED. FISHERIES NEGOTIATIONS CON-

TEMPLATING EXTENDED JURISDICTION BETWEEN THE US AND MEXICO WOULD BE GREATLY SIMPLIFIED IF LOS WERE NEAR COMPLETION.

6. I WOULD LIKE FOR GOM TO BE CONTACTED AT FOREIGN MINISTER LEVEL TO URGE THAT GOM DELAY ENFORCEMENT OF ITS 200-MILE ZONE WITH RESPECT TO FOREIGN FISHERMEN. IT COULD BE POINTED OUT THAT US IS ALSO MOVING TO 200-MILES, BUT THAT US WILL NOT LIKELY ENFORCE ZONE AGAINST FOREIGN FISHERMEN BEFORE THE SUMMER OF 1977, THUS ALLOWING TIME FOR NEGOTIATION OF TERMS OF ACCESS. OTHER POINTS NOTED IN PRECEDING PARAGRAPH COULD ALSO BE MADE. OUR CONCERN IS THAT WE ARE HEADED TOWARD A SITUATION THIS SUMMER FOR WHICH NEITHER GOVERNMENT WILL REALLY BE PREPARED. EMBASSY SHOULD ALSO EXPRESS TO OTHER APPROPRIATE GOM AUTHORITIES CONCERNS WE HAVE REGARDING DIRECTION IN WHICH WE SEEM TO BE HEADED, DRAWING IN PARTICULAR ON POINTS NOTED IN PARAGRAPH 3.

7. I REALIZE THAT SUCH AN APPROACH MAY BE ONE STEP SHORT OF REQUESTING THAT THE TWO GOVERNMENTS ACTUALLY BEGIN DISCUSSIONS NOW ON CONTENT OF FISHERY ARRANGEMENTS, WHICH WAS CONSIDERED AT RECENT MEETING AT EMBASSY HELD BETWEEN MEMBERS OF YOUR STAFF AND DEPUTY ASSISTANT SECRETARY RIDGWAY AND OTHER DEPT PERSONNEL. IT SEEMS CLEAR THAT SUCH DISCUSSIONS WILL BE NECESSARY SOON. IF GOM CANNOT FIND ITS
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WAY TO CONSIDER DELAY IN ENFORCEMENT RATHER URGENT NEGOTIATIONS WILL BE CRITICAL. THERE IS NO PROBLEM IF EMBASSY HAS EXPLORED THIS FORMALLY OR INFORMALLY WITH GOM. SUCH DISCUSSIONS COULD BE HELD AT FIRST AVAILABLE OPPORTUNITY ON SEVERAL FISHERY QUESTIONS, INCLUDING THE IMPLEMENTING LEGISLATION. IDEAL FIRST STEP, HOWEVER, WOULD BE FOR MEXICO TO AGREE TO A DELAY IN ITS TIMETABLE AS WE PRESENTLY UNDERSTAND IT.

8. DEPUTY ASSISTANT SECRETARY RIDGWAY RECALLS THAT IN HER RECENT TRIP SUBSECRETARY CASTENADA NOTED THAT, ALTHOUGH THE GOM CONSTITUTIONAL AMENDMENT WOULD BECOME THE LAW OF MEXICO THIS SUMMER, AS A PRACTICAL MATTER CERTAIN PROVISIONS WOULD NOT BE ENFORCED AND WOULD AWAIT THE LOS

CONVENTION (POLLUTION AND SCIENTIFIC RESEARCH). MOREOVER, HE INDICATED THAT OTHER MEANS MIGHT BE FOUND TO GET US THROUGH THE DIFFICULT TRANSITIONAL PHASE. THEREFORE, ASSUMING THAT THERE IS VALIDITY TO CASTENADA REMARKS, I

THINK THERE IS SOME HOPE THAT GOM MIGHT BE WILLING TO CONSIDER SOME SORT OF DELAYED ENFORCEMENT, EITHER FORMALLY OR

INFORMALLY. MAW

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